

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE EFRON WRIGHT,

Defendant-Appellant.

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UNPUBLISHED

July 28, 2009

No. 283997

Wayne Circuit Court

LC No. 07-014620-FH

Before: Talbot, P.J., and Fitzgerald and Hoekstra, JJ.

TALBOT, J. (*concurring in part, dissenting in part*).

I respectfully dissent from the majority's opinion regarding the necessity of reversing defendant's convictions and remand for a new trial based on questioning conducted by the trial court during the proceedings. I concur with the remainder of the decision and reasoning regarding other testimony elicited by the prosecutor.

Specifically, I cannot agree that the trial judge's limited and brief questioning of an alibi witness, despite the tenor of some of the inquiries, is sufficient to necessitate reversal of defendant's convictions. I would note that the trial court properly instructed the jury that its comments, rulings and questions did not comprise evidence and indication that the court was not attempting to influence the jury's verdict by its comments. The trial court went further and instructed the jury that it should ignore any opinion it assumed the trial court maintained regarding what should be the outcome of the case. It is presumed by this Court that a jury followed its instructions. *People v Graves*, 458 Mich 476, 486; 581 NW2d 229 (1998). Notably, the verdict rendered was to a lesser charge, suggesting that the jury was not swayed or influenced by either the trial court's questions or the tenor of the inquiries. As such, it is apparent that the jury listened to the instructions provided and were discerning in the rendering of their verdict. Therefore, I would affirm defendant's convictions.

/s/ Michael J. Talbot